

Statement of Dr. Luther L. Terry Surgeon General, Public Health Service. Senate Hearings 1965

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CIGARETTE LABELING AND ADVERTISING

Each of the bills would require warning labels and the wording of these labels is specified in the bills. It seems preferable to leave formulation of the precise warning required to administrative regulation. This would allow for changes through research or technical improvements which might, in the course of time, result in a safer cigarette. Such changes might justify a reduced warning or perhaps even its omission. It is possible that other statements on the package, or in other labeling, or in advertising might serve to negate such a warning, however subtly. We would further suggest that specific authority be included to prohibit or regulate the use of statements that either negate the warning or, while not clearly doing so and at least not demonstrably false, might give the consumer the misleading impression that a given cigarette is safer than others.

Both bills provide for a statement as to contents. S. 547 would require that each package bear a statement as to the content of each "incriminated agent" found in cigarette smoke and S. 559 would require a statement as to the average tar and nicotine yield as measured by a specified method. At one time, the use of such claims caused widespread confusion as to the possible healthfulness of one cigarette as opposed to another. While it seems at least plausible that cigarettes with lower tar and nicotine may present lesser health hazards, there is presently no proof that this is so. There is some evidence that symptoms associated with certain diseases are less common in those who use the lower nicotine, lower tar cigarettes, and further research may disclose other agents, or specific tar components, that may be related to the incidence of serious diseases. But it is exceedingly important that the consumer be warned that while such a cigarette may be safer, it is not safe.

Any statement as to contents should, in our view, be based upon a standardized determination in accordance with regulations, and should be utilized to present meaningful information to the consumer—information which will allow him or her to make an intelligent choice. We would recommend that, instead of setting forth in the statute particular components of tobacco smoke that must be disclosed on the label and the method of determining such components quantitatively, regulatory authority be provided to decide which particular components of cigarette smoke should be disclosed on the label. This authority should also extend to the analytical methods to be used, and the manner in which the information is presented to the consumer. We would further recommend that the regulatory agency be authorized to require the manufacturers to provide the agency with information as to the ingredients—including additives—of cigarette tobacco.

Lastly, I should like to touch briefly on the question of the agency or agencies in which these functions should be vested. It is clear, in view of what I have already said, that it would oversimplify the matter, in our opinion, to attempt to spell out the requirements in the statute itself and dispense altogether with regulatory administration. With regard to labeling regulations of cigarettes, the Department has concluded, on balance, that responsibility should be vested in our Department, preferably by way of appropriate amendments to the Federal Hazardous Labeling Act of which, Mr. Chairman, you are the author. This conclusion was reached after consideration of the

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of regulatory approach requiring enforcement provisions which would enforce the cigarette labeling and relevant experience under the Federal Hazardous Labeling Act further commend the belief that regulation of cigarette labeling is needed, should the Federal Trade Commission.

It is our belief that passage of such legislation would be of significant value in controlling cigarette smoking and in our effort to provide useful and meaningful information upon which individual decisions can be made. Our belief is based, in part, upon a survey conducted during the last year in which a number of questions were asked of the general public. The results of the survey are summarized in the following table of "appropriate remedial action." Preliminary figures from this survey indicate that 77.7 percent of the people asked whether cigarette smoking is enough of a health hazard, 7.5 percent of the people asked whether the general public knows all it needs to know about cigarette smoking and health.

60.4 percent of the people asked whether the general public knows all it needs to know about cigarette smoking and health. The following statement is a paraphrased statement—

Cigarette manufacturers should not be allowed to use a warning label like, "cigarette smoking may be harmful to your health." By the way, 62.4 percent of the people asked whether the statement is presented in a way that the public's feeling is quite different from the warning label.

The same kind of negative statement is the following statement:

Cigarette advertising or commercial promotion should not be allowed to state to the effect that smoking is a health hazard.

Here again, a large majority of the people surveyed disagreed with that statement. 67.3 percent agreed with the statement.

This indicates again that the public is in favor of more regulation of cigarette advertising.

The consensus grows even stronger when the following statement is presented:

Cigarette companies should not be allowed to state to the effect that the amount of tar and nicotine in their cigarettes is low.

79.1 percent of the people asked whether the general public knows all it needs to know about cigarette smoking and health.

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labeling, or in advertising do not in any way serve to negate such a warning, however subtly. We would suggest that specific authority be included to prohibit use of statements that either negate the warning or, while not clearly doing so and at least not demonstrably false, might give the consumer the misleading impression that a given cigarette is less hazardous than it actually is or less of a risk than others.

We are also concerned about the fact that three of these bills (H.R. 8014, H.R. 4007, and H.R. 7051), would forbid any requirement, including any FTC requirements, for inclusion of a health message in advertising for cigarettes that are labeled as required by the bills. Whether the effect of a label warning can be adequate in itself, and whether it is likely to be neutralized or overcome by the effect of advertising, are questions, that, we believe, can best be resolved on the basis of actual experience.

The Federal Trade Commission, in its trade regulation rule, has specifically invited interested parties to apply for suspension, modification, or abrogation of its rule with respect to advertising of cigarettes before its effective date if circumstances have sufficiently changed. This could include consideration of the effect of a label warning. We do not believe that the public health would be well served by striking from the hands of the Commission the authority over advertising that it asserts.

One of the bills, H.R. 4244, requires a statement of tar and nicotine content on the cigarette package. At one time the use of tar and nicotine content claims, based on a variety of measurement methods, caused widespread confusion as to the possible healthfulness of one cigarette as opposed to another. However, there now is a standardized method of measuring tar and nicotine yield which can be duplicated. Although we cannot definitely prove that a reduction of tar and nicotine content in cigarette smoke will significantly decrease the health hazard, it is a reasonable assumption that this would result. There

is evidence that symptoms associated with certain diseases are less common in those who use the lower nicotine, lower tar cigarettes. But it is exceedingly important that the consumer be informed that while such cigarettes may be less hazardous, they are not safe. Many smokers, as I have said, find it difficult to stop smoking, but the substantial switch to filter cigarettes indicates they are anxious to protect their health by smoking what they believe to be a less hazardous product. For these several reasons, we feel that a statement on the package of tar and nicotine content based on a standardized determination would be useful.

However, current research concerning the various components of cigarette smoke may call for changes in the tar and nicotine statement or indicate other components that should be listed on the cigarette package. We would recommend that instead of a specific statutory requirement for a statement as to particular components of cigarette smoke, regulatory authority be provided to decide which particular components should be disclosed on the label. This flexibility of authority should also extend to the analytical methods to be used and the manner in which the information is presented to the consumer. Any statement as to contents should, in our view, be based upon a standardized determination and should be utilized to present meaningful

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information to the consumer. We regulatory agency be authorized to provide the agency with continuing information including additives, in cigarettes.

H.R. 3014, H.R. 4004, and H.R. 4005, which prohibit the sale of "any roll of tobacco or other substance other than tobacco, and intended for use as tobacco," may be aimed at "other substance" there is almost no information as to regard comparable to the information accepted sense of the word.

Lastly, I should like to touch briefly on agencies in which these functions fall. Of what I have already said, that it is our opinion, to attempt to spell out itself and dispense altogether with regard to the labeling of cigarette, included, on balance, that responsibility, preferably by way of appropriate Hazardous Substances Labeling after consideration of the type of the inspection, seizure, and other, then be automatically available. experience built up in the administration of the Hazardous Substances Labeling Act and the further commends this approach. tising, on the other hand, should Federal Trade Commission as I

Mr. Chairman, the Public Health Service has taken the problem of smoking and health in a very limited way, to improve the Advisory Committee report. The following four areas:

- (1) disseminating information on the health hazards of cigarette smoking;
- (2) determining effective methods of reaching people who want to stop cigarette smoking;
- (3) exploring techniques for involving parents, teachers and other adults in the effort to reduce smoking among the young;
- (4) studying the social and cultural factors which determine smoking attitudes toward smoking.

As you may know, more the distributed. In addition, five of the report have been prepared sponsoring smoking withdrawal. In Arizona, we are have studied the smoking behavior and have found that on plan further studies of other

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